

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

TERRELL GILES,

Petitioner,

v.

MICHAEL GIAMBRUNO,

Respondent.

---

**DECISION AND ORDER**  
04-CV-779S

1. On August 22, 2007, the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, filed a Report, Recommendation, and Order recommending that this Court deny the Petition for a Writ of Habeas Corpus (Petition at Docket No. 1, Report and Recommendation at Docket No. 20).

2. On September 10, 2007, Petitioner filed Objections to Judge Schroeder's Report, Recommendation, and Order in accordance with 28 U.S.C. § 636(b)(1)(C) and Local Rule 72.3(a)(3). (Petitioner's Objections at Docket No. 21). This Court took the matter under advisement on September 10, 2007, without oral argument.

3. This Court has thoroughly reviewed *de novo* Judge Schroeder's Report, Recommendation, and Order, Petitioner's Objections thereto, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Schroeder's Report, Recommendation, and Order, and it concurs in his conclusions. Accordingly, Petitioner's Objections are denied and this Court will accept Judge Schroeder's Report, Recommendation, and Order in its entirety.

4. In particular, the Objections are based on Petitioner's assertion that Judge Schroeder failed to take into account Petitioner's claim of ineffective assistance of counsel, and Petitioner's claim that the arresting officers lacked probable cause. This Court agrees

with Judge Schroeder's findings that Petitioner's plea of guilty was knowing and voluntary, and that there is no indication defense counsel was ineffective. (Docket No. 20, pp. 12-14). Further, this Court agrees with Judge Schroeder's conclusion that police had probable cause to arrest Petitioner. Police were searching for Petitioner's missing son, who had been in the custody of a shooting victim at the time of the shooting. (Docket No. 20, p. 14). Petitioner's father informed police that Petitioner was "the one involved in the shooting" and was on his way to the Petitioner's father's house to turn himself in to the police. (Docket No. 20, p. 14). Shortly thereafter, petitioner walked in front of the house, holding hands with his six-year-old son, and was arrested. (Docket No. 20, p. 14).

IT HEREBY IS ORDERED, that this Court accepts Judge Schroeder's Report, Recommendation, and Order (Docket No. 20) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Petitioner's Objections (Docket No. 21) are DENIED.

FURTHER, that Petitioner's Petition for a Writ of Habeas Corpus (Docket No. 1) is DENIED for the reasons set forth in Judge Schroeder's Report, Recommendation, and Order.

FURTHER, that the Clerk of the Court is directed to take the steps necessary to close this case.

SO ORDERED.

Dated: September 26, 2007  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge